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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:
Scott D. Cook et al.

Conf. No.: 2923

Application No.: 09/487,233

Art Unit: 3628

Filed: January 19, 2000

Examiner: H. T. Dass

For: CONSUMER-DIRECTED FINANCIAL TRANSFERS USING AUTOMATED CLEARINGHOUSE NETWORKS

## DECLARATION PURSUANT TO 37 CFR §1.131

In connection with the Applicant's Response to the Office Action of April 13, 2006, this Declaration sets forth the pertinent facts proving conception of the claimed invention prior to **May 14, 1999**.

1. We, Scott Cook and Rene Lacerte, are the listed inventors for U.S. Patent Application Serial No. 09/487,233 entitled "Consumer-Directed Financial Transfers Using Automated Clearinghouse Networks."
2. We, Scott Cook and Rene Lacerte, conceived the claimed invention on or before February 12, 1999, as evidenced by: (i) the disclosure submitted to our representative (Mr. Robert Sachs) dated February 12, 1999 (*see* Tab 1); and (ii) the documented telephone conference between assignee and Mr. Robert Sachs dated March 5, 1999 (*see* Tab 2).
3. We, Scott Cook and Rene Lacerte, conceived the claimed invention prior to at least May 14, 1999, as set forth above, in the United States.

4. We, Scott Cook and Rene Lacerte, diligently worked on the reduction to practice of the invention from at least the date established by the enclosed documents (referenced above) until at least the date of constructive reduction to practice established by the filing of U.S. Patent Application No. 09/487,233 on January 19, 2000 as evidenced by the correspondences between various parties regarding the drafting of the patent application for the present invention between July 12, 1999 and December 20, 1999 (*see* Tab 3).

We, Scott Cook and Rene Lacerte, hereby declare that all statements made herein of our own knowledge are true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signed this 6 day of ~~July~~ Sept 2006. _____
Scott Cook

Signed this ___ day of July 2006. _____
Rene Lacerte

~~Dated:~~

Respectfully submitted,

By_____
Robert P. Lord
Registration No.: 46,479 RPL
OSHA LIANG LLP
1221 McKinney St., Suite 2800
Houston, Texas 77010
(713) 228-8600
(713) 228-8778 (Fax)
Attorney for Applicant

4. We, Scott Cook and Rene Lacerte, diligently worked on the reduction to practice of the invention from at least the date established by the enclosed documents (referenced above) until at least the date of constructive reduction to practice established by the filing of U.S. Patent Application No. 09/487,233 on January 19, 2000 as evidenced by the correspondences between various parties regarding the drafting of the patent application for the present invention between July 12, 1999 and December 20, 1999 (*see* Tab 3).

We, Scott Cook and Rene Lacerte, hereby declare that all statements made herein of our own knowledge are true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signed this ___ day of July 2006.

Scott Cook

Signed this 27 day of July 2006.

Rene Lacerte

Dated: September 7, 2006

Respectfully submitted,

By

Robert P. Lord
Registration No.: 46,479
OSHA · LIANG LLP
1221 McKinney St., Suite 2800
Houston, Texas 77010
(713) 228-8600
(713) 228-8778 (Fax)
Attorney for Applicant

# TAB 1

New Invention Disclosure
Consumer Directed Payments
using ACH and POS systems

Inventor: Scott Cook

3878

**Robert Sachs**

**From:** "Colgin, Allison" <Allison_Colgin@intuit.com> at Internet
**Sent:** Friday, February 12, 1999 9:57 AM
**To:** Robert Sachs
**Subject:** FW: Patent candidates

Forward.txt

RFC822 message headers.txt

Robert --

[redacted]

Forward Header

Subject: NE candidate: Net-ACH aka You've got money!
Author: Scott Cook at emb1840
Date: 2/12/99 6:19 AM

[redacted]

Net-ACH aka You've got money!

SITUATION

There's no way to send money electronically cheaply.

Combining the ACH, email, the web, and possibly the POS systems may enable
us to own a system of ubiquitous, cheap, next day payments.

Current payment alternatives wo. /ell except for sending money cheaply and fast. Wires are same-day good funds, but are priced at $10-$15. Mailed checks take days to arrive and sometimes days to clear, but cost under $.40. Credit card payments are fast and electronic, but can be received only by authorized merchants not individuals and they cost the receiver 2-4% for card-not-present payment and a minimum around $25 per month.

Yet the U.S. has a ubiquitous same-day payment system that costs $.04 a payment: the ACH. It enables money to be sent from essentially any bank account to any other bank account. I believe we may be able to remedy its weaknesses to create a payment system with advantages including:

* Ease & convenience: all the sender needs is the recipients email address. The sender need not write and mail a check. The funds arrive into the recipient's account--the recipient need not go to the bank to deposit a check.
* Speed: the payment is credited to the recipient in 1 to 2 business days.
* Funds availability: the same as a check, possibly better.
* Cost: marginal cost is $.04. To that add lights-out operations, risk, and overhead.
* Simple pricing: pricing could be as simple as a fee per payment deducted automatically from the senders DDA. No other fees, monthly or otherwise. (an overdraft fee could be charged)
* Ubiquity: Sender and receiver could be as broad as anyone with an email address, web access, and an ATM card.
* Easy setup: none required for the recipient. The sender may be able to send payments as soon as the same day he signs up.

SPECIFIC USES

* Initial uses

Person to person payments. Examples: sending money to family members and to ebay sellers. FYI, ebay is running at 50MM person to person payments annually--most done by mailed checks or cashier's checks.

Person to self payments, ie transfers between one's own accounts at different FIs.

Person to SBO payments. Specifically, bill payments to small businesses who can figure out to credit you from an email indicating you paid them. Examples: payments to the gardener, contractor, etc.

* Later uses

Efile tax payments. Net-ACH should enable electronic efile payments without merchant discounts as congress requires, and from the DDA account as consistent with taxpayer habits.

Corporate to person payments. Examples: rebates, refunds, dividends.

Bill payment. Billers could allow Net-ACH as a payment method for presented bills. Billers should prefer Net-ACH since the sender pays the entire fee, not the biller.

Website purchases. Etail sites may prefer given Net-ACH's far lower cost than credit card. Etail sites might give 1-2% discount for Net-ACH.

SIZING

For example, my guess at ebay's payment business alone in 2000 would yield revenue of $50MM. Ebay has higher expectations: $200 to $400MM in revenue to the payments vendor(!) These numbers count only the fees charged for the payment service, not the payments themselves.

Assumptions for $50MM: 200mm ebay payments, 1/2 use this system @$.50 each.

BASIC OPERATION FOR PERSON-TO-PERSON PAYMENT

1. The sender sets up with us giving up his routing/transit number. We verify his ownership of it as described below. He specifies a user name and password.

2. Anytime thereafter the sender comes back to our website. We confirm his user name and password is right.

3. Sender fills in a short form giving us the amount and the recipient's email address.

4. We email the recipient saying: You've got money! Recipient clicks thru to specific page on our site and fills in a form with his routing/transit number.

5. We use the ACH to withdraw the amount from the sender's account, confirming sufficient funds as described below. When confirmed (eg the next day) we use the ACH to send the funds to the recipient's account. We email both participants confirming completion.

Note a variant that increases profit and may reduce risk, although senders may not prefer it (maybe default to this but let senders opt for the process above at a higher price?): Withdraw the funds from the sender's account immediately after step 3 and before we've heard from the recipient. This expands our float.

Note another variant is to download a client to each users' machines. This may be used to improve security, enable broader or easier use (eg for paying at etailors) or help deter alternatives.

HOW TO STOP CHEATS

Payment systems only work to the extent they drive fraud and risk losses down to acceptably low levels. For example, the credit card system runs fraud losses of 15 basis points and credit losses of 400 basis points [confirm credit loss #].

Conventional means include
* Confirming the identity of the sender and receiver through trusted relationships (eg banks) or 3rd party vendors (eg Telecheck or credit bureaus).
* Collateral, eg having a credit card number as a backup.
* Attaching a durable trackrecord to an identity, eg credit bureaus or ebay's feedback rating coupled with ebay's restrictions on the use of freemail addresses (eg hotmail).
* Limiting exposure, by limiting the size or number of payments per user.

We may use these, though they bring issues, such as cost or delay especially to first use.

At the same time there may be opportunity to innovate. Here are 2 possible innovations.

* How do we confirm that the sender actually owns the accounts he gives as the source account? If not, we'd pull the money from an innocent victim's account.

Possible solution: ask the sender at her initial setup to type in her current bank balance in the account. We check that versus the balance

we obtain from the POS system. y the owner of an account knows its balance (via ATM, telephone banking, or homebanking.) This verification need be done only once.

* How do we prevent transfers from accounts with insufficient funds?

Possible solution: use a combination of the ACH and POS systems: Use the POS system to check that the source account has sufficient funds before withdrawing funds from the sender's account. Then use the POS system again the next day to confirm that the account is not overdrawn.

If not overdrawn, then release the funds to the recipient on day 2.

(A potential alternative: Use the POS system check that funds are available and to "reserve" the amount if POS allows funds to be reserved.)

REQUIREMENTS FOR CO-SPEC NETWORK EFFECT

* Two groups
Those sending and receiving money

* Improve the interface
Ubiquitous, cheap, next day payment where there is none.

* Solve the chicken/egg problem
1. Net-ACH has a viral nature: if you get the senders the receivers will follow to get their money. Once registered it's easy for receivers
to become senders.

2. Hence, lockup the large sources of senders, specifically ebay.

3. Also, build into and promote via Q and QB.

4. Merchant preference can also inspire senders, so get IRS to accept in preference to credit card and build into TT/Pro Tax.

* Get leading scale
Getting ebay, Q, QB, & IRS are large sources of scale. OEM to Yahoo, AOL. A barrier is getting individuals to part with their r/t number.

* Deter alternatives
This may be the weakness in Net-ACH as a network effect. There are fixed costs of registration. That means switching costs to try a new supplier. Further individuals may resist having their r/t numbers in many places on the net. Likely tactic in early years is to price the large drivers of new users (ebay, IRS, big etailors, corporate senders) at cost to gain share and deter entrants. Likely tactic is to "glue" the service to ebay initially to make it look nichy and unique to P2P auctions to hope competitors ignore while we build scale and perfect generalized Net-ACH.

* Tax
Charge the sender when replacing mailed checks, or the recipient when replacing card payments.

POSSIBLE GOTCHAS

Among the many possible gotchas are:

* We're unable to squeeze fraud cost to acceptably low levels

* Blocked by ACH rules, banks, or Reg E?

* People may be unwilling to trust us with their r/t numbers, especially if hackers cheat some.

* Hackers intercept the emails and steal r/t numbers. Or pose as the recipient using the hacker's routing/transit number getting the funds deposited in the hacker's account.

* Hackers pose as us to get r/t numbers

* Anyone of scale and intent can do this and profits are elusive fighting competition from [redacted]

* Why hasn't or doesn't [redacted] do this?

# TAB 2

# TELEPHONE CONFERENCE

Name: Allison Colgin Case: 16319 Client No. 16319-01000

Phone: [redacted] 451 Client: Intuit, Inc.

Re: Scott Cook Inventions

Date 3/5/99

Consumer initiated movement of money: You've Got Money

Banks have the ACH system which allows sending of funds for cheap (0.015/transaction). This is automated clearinghouse for electronic transactions.
The fundamental reasons that ACH has not been used for consumer use is the risk and cost, and consumer psychology about having others pull money out of their account. But these problems can be solved for wired consumers (unsolvable for unwired consumers).
The system ACH can be combined with the web, POS, and email can eliminate the problems to create a payment system to move the money overnight for less than the the cost of a stamp with control by the consumer, and with upside to the company. About 0.03 raw cost. So if priced at about a stamp cost, it would be lucrative. Right now very slow either write a check or wire or bank check.
Inventions:
1) concept of using the internet as the consumer gateway to the ACH system. Right now you have to go through the bank on paper. So consumer can't get it. Internally, there is no technical problem to doing it, but never thought of doing it because of other problems. So general idea is consumer access to the ach.
Applications:
Sending money to other consumers directy.
Sending money to yourself to other accounts at other FIs. Automatically move the money via quicken scripts, with direct deposit etc.
Paying taxes to IRS state agencies. Problem is most people pay by check. But this is only for refund now by the IRS by direct deposit. But check payment is not done. About 30% of returns may payment.
Paying bills issued by small companies. Ultimately payment of bills (bill presentation to do the accounting) with YGM as front end

Competitors: wired transactions (expensive, difficult). Paper check manufacturers.

2) Using email to advise receipient to advise availability of funds. Historically, you need to know if the receipient is set up to receive the ACH transaction. You needed to set up the receipient to receive. But with email you only need the email address of the receipient. So you send an email to the receipient that they have money. the receipient goes to the web site to input the account information by the receipient does the set up in reponse to the receiving the payment. so the sender does not have to apriori ensure that the recipient is set up, rather the receipient sets up account after notification of having money. So you only need to know the email address of the recipient. Could be automated telephone call to receipient with the same information.

3) Risk is the undoing of the system; if too much risk then the system will not work because of too high cost to eliminate. So how do you confirm that the sender is giving you a legitimate account number that belongs to the sender in order to ensure that they don't give a false account or someone elses: Invention: Sender inserts the receipients email address, and her account number: the system challenges/requests with a request for the balance in the sender's account. She inputs the balance. System uses the POS system to confirm that balance with the actual account. You can't do this via the mail because of the time. There could be discrepacies that can be handled. Use intelligence to handle discrepencies.

4) Another area of risk: if the sender's account does not have enough money, recently closed, on hold

# TAB 3

FENWICK & WEST LLP
A LIMITED LIABILITY PARTNERSHIP
TWO PALO ALTO SQUARE | PALO ALTO, CA 94306
TEL 650.494.0600 | FAX 650.494.1417 | www.fenwick.com

Direct Dial: (650) 858-7110
*rsachs@fenwick.com*

July 12, 1999

*via Federal Express*

Scott Cook
Rene Lacerte
Intuit, Inc.
2535 Garcia Avenue
Mountain View, CA 94043

Re: New U.S. Patent Application for:
Title: CONSUMER-DIRECTED FINANCIAL TRANSFERS USING THE INTERNET AND THE AUTOMATED CLEARINGHOUSE SYSTEM
Inventors: Scott Cook and Rene Lacerte
Our Ref.: Case 3878 (16319-03878)

Dear Scott and Rene:

I am pleased to enclose for your review and comments the first draft of the specification, claims, and drawings for the above-referenced patent application.

Please examine the entire application carefully for technical accuracy and completeness of description of the invention. The patent specification must contain sufficient information to do two things: (1) enable one skilled in the art to practice the invention based on the description; and (2) describe the best mode that you know of for practicing the claimed invention. Accordingly, the specification must contain sufficient detail to allow one of ordinary skill in the art to design and construct a system for transferring funds via the Internet and the ACH.

In order to minimize further preparation of this application, please thoroughly review the specification, claims and drawings and make all corrections or additions that are necessary. You may insert additional pages of comments if necessary, or to suggest changes to the drawings. I have also emailed you copies of the specification and drawings, so you may make your comments and corrections in these documents.

You will also note that I have included many comments and questions. Please answer the questions as completely as possible, as this will reduce the number of redrafts that may be necessary.

Please note that once the patent application is filed with the United States Patent & Trademark Office, we will not be able to make substantive changes to the specification without losing the benefit of the filing date for the substantive changes. Accordingly, please be sure your comments and corrections are as complete as possible.

If you have any questions, please do not hesitate to call or email me.

Sincerely,

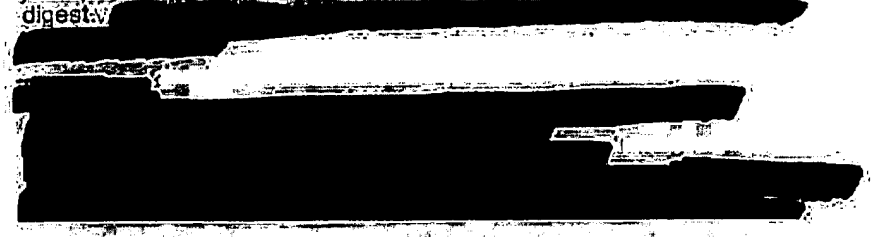
FENWICK & WEST LLP

Robert R. Sachs

RRS/jbs
Enclosures

-----Original Message-----
From: Lacerte, Rene [mailto:Rene_Lacerte@intuit.com]
Sent: Tuesday, July 20, 1999 5:52 PM
To: 'Robert Sachs'; Cook, Scott
Cc: Stephens, Kalleen
Subject: RE: Net-ACH patent application

Hi Bob, wow this is very complete. Thanks for pulling this together. I just spent 3 hours going over it but I am sure it might take a while to digest.



[redacted] 3278

**Robert Sachs**

**To:** Robert Sachs; 'Lacerte, Rene'; Cook, Scott
**Cc:** Stephens, Kelleen
**Subject:** RE: Net-ACH patent application

Scott:

Please let me know if you will be able to review the specification and comment on it. I've received Rene's comments, but I'm sure it could benefit from your review.

Thanks,

Bob

-----Original Message-----
From: Robert Sachs
Sent: Monday, July 26, 1999 11:47 AM
To: 'Lacerte, Rene'; Robert Sachs; Cook, Scott
Cc: Stephens, Kelleen
Subject: RE: Net-ACH patent application

Scott,

Just a reminder that we need to file this patent as soon as possible, and I need your comments to do so.

[redacted]

The sooner we file the patent the better.

Please advise.

Bob

## Robert Sachs

**From:** Cook, Scott [Scott_Cook@intuit.com]
**Sent:** Monday, August 30, 1999 8:21 AM
**To:** Robert Sachs
**Cc:** Valentine, Catherine
**Subject:** sdc comments on Net ACH patent app

sdc comments on 3878 Specifica...

Bob, sorry for my delay. I should have but did not know of the timing issues
until the weekend when Catherine's voicemail helpfully nudged me.

Bob, this is tremendous work. As I've mentioned to you and to Catherine,
you are brilliant in groking the essence, then correctly extending it, and
then clearly explaining it. The payment area is a complex and arcane arena
and you've done a masterful job here. If I'd put my kudos in the text
itself for the many things that impressed me, that would have lengthened it
considerably.

Attached are my comments in blue in your document. I read and commented on
the section before you introduced the drawings, and on all of your bolded
questions throughout the document. But I could not obtain the documents
from the email (there were some mysterious files labeled 3878.vsp and
3878landscape.vsp that my PC won't open.).

Can you send me the drawings again today and I will review the text related
to them on my flight to Japan tommorrow, then email you from Japan? One way
is by fax [redacted] or email me just the figures in a form I can open.

scott

> <<sdc comments on 3878 Specification v2 NET ACH.doc>>

**Robert Sachs**

**From:** Robert Sachs
**Sent:** Friday, October 01, 1999 5:32 PM
**To:** 'Cook, Scott'; 'Lacerte, Rene'; 'nancy_tubbs@intuit.com'
**Cc:** Valentine, Catherine; 'kelleen_stephens@intuit.com'
**Subject:** Final draft of NetACH

k2f0011.DOC

3878 Landscape.vsd

3878.vsd

Scott and Rene:

I've now received and reviewed all of your comments. Thank you Scott for the very extensive phone mail comments in addition to the markups.

I did capture all of your significant comments and new features; there were minor changes which I did not make bec. I could not tell what pages you were refering to. [redacted]

[redacted]

Accordingly, attached you will find the current final draft and revised figures (the changes you suggested have been made).

In the specification, all the changes are shown in Bold if you print it out with revision mode, show changes in printed document turned on. That will make it very easy to see the changes since the last draft.
The figures are in Visio 5.0, which is a standard graphic package. If

[redacted] I'll forward the final drafts to Scott and Rene. Once you've approved it, I'll file. I expect to complete this by 12/15 if you both can turn your comments around by 12/12.

"Fenwick & West, LLP <fenwick.com>" made the following annotations on 12/02/99 13:33:35

----------ATTORNEY-CLIENT PRIVILEGED COMMUNICATION:
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## Robert Sachs

**From:** Cook, Scott [Scott_Cook@intuit.com]
**Sent:** Friday, December 03, 1999 10:52 AM
**To:** Robert Sachs; 'Lacerte, Rene'
**Cc:** 'Stephens, Kelleen'; 'catherine_valentine@intuit.com'; Luke, Noelani
**Subject:** RE: Status: Net-ACH patent application

[redacted]

-----Original Message-----
From: Robert Sachs [mailto:RSachs@fenwick.com]
Sent: Thursday, December 02, 1999 1:34 PM
To: 'Lacerte, Rene'; 'Cook, Scott'; Robert Sachs
Cc: 'Stephens, Kelleen'; 'catherine_valentine@intuit.com'
Subject: Status: Net-ACH patent application

I've received the most recent rounds of Scott's comments, which were extensive and insightful. To the extent possible, I have incorporated these
ideas into the patent. [redacted]

# FENWICK & WEST LLP

PALO ALTO, CA WASHINGTON, DC SAN FRANCISCO, CA

DATE: 12/20/99

FROM: **Robert R. Sachs**
TEL: [redacted]
FAX: [redacted]
FAX: [redacted]

TO: **Scott Cook**

COMPANY: **Intuit, Inc.**
TELEPHONE:
FACSIMILE: [redacted]
PAGES:
CONFIRMATION: ☐ **Yes** ☒ **No**
ACCOUNT: **16319 - 01000**

**RE: Final drawings for NET ACH patent application.**

**FAXED**
**DEC 2 0 1999**
**FENWICK & WEST**

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FORM PTO-1449 (REV. 6-89)

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

# INFORMATION DISCLOSURE CITATION

(Use several sheets if necessary)

| Attorney's Docket No. | Application No. |
|---|---|
| 16319-03878 | 09/487,233 |
| **Applicant** | |
| Scott D. Cook et al | |
| **Filing Date** | **Group Art Unit** |
| January 19, 2000 | 2768 |

## U.S. PATENT DOCUMENTS

| Examiner Initial | | Document Number | Date | Name | Class | Subclass | Filing Date If Appropriate |
|---|---|---|---|---|---|---|---|
| HTD | A21 | 5,659,165 | 8/19/97 | Jennings et al | 235 | 379 | |
| HTD | A22 | 5.623,547 | 4/22/97 | Jones et al | 380 | 24 | |
| HTD | A23 | 5,557,516 | 9/17/96 | Hogan | 364 | 406 | |
| HTD | A24 | 5,455,407 | 10/3/95 | Rosen | 235 | 380 | |
| HTD | A25 | 5,453,601 | 9/26/95 | Rosen | 235 | 379 | |
| HTD | A26 | 5,440,634 | 8/8/95 | Jones et al | 380 | 24 | |
| HTD | A27 | 5,383,113 | 1/17/95 | Kight et al | 364 | 401 | |
| HTD | A28 | 5,351,296 | 9/27/94 | Sullivan | 380 | 24 | |
| HTD | A29 | 5,231,571 | 7/27/93 | D'Agnostino | 364 | 408 | |
| HTD | A30 | 5,220,501 | 6/15/93 | Lawlor et al | 364 | 408 | |
| HTD | A31 | 5,025,372 | 6/18/91 | Burton et al | 364 | 406 | |
| HTD | A32 | 5,010,484 | 4/23/91 | Bigari | 364 | 408 | |
| HTD | A33 | 4,941,090 | 7/10/90 | McCarthy | 364 | 405 | |
| HTD | A34 | 4,866,611 | 9/12/89 | Cree et al | 364 | 300 | |
| HTD | A35 | 4,823,264 | 4/18/89 | Deming | 364 | 408 | |
| HTD | A36 | 4,750,119 | 6/7/88 | Cohen et al | 364 | 401 | |
| HTD | A37 | 4,713,761 | 12/15/87 | Sharpe et al | 364 | 406 | |
| HTD | A38 | 4,645,873 | 2/24/87 | Chomet | 379 | 93 | |
| HTD | A39 | 4,454,414 | 6/12/84 | Benton | 235 | 379 | |

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

| | | |
|---|---|---|
| 1 | C1 | "Just Plain Bill", *ComputerLetter*, Vol. 16, No. 4, pp 1-5 (January 2000). |
| | C2 | "Small Change", *ComputerLetter*, Vol. 12, No. 10, 4 pages (March 1996). |
| | C3 | *Payments Publications* , Herndon, VA, 21 pages, (1999). |

| EXAMINER | DATE CONSIDERED |
|---|---|
| H T Dass | 10/29/02 |

EXAMINER: Initial if references considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

RECEIVED
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PTO-1449
REV: 12/96

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